

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE ANTITRUST
LITIGATION

THIS DOCUMENT RELATES TO: NO: Master Docket No.
11-CV-2509-LHK

ALL ACTIONS.

CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF DANIEL ROBERT MCKELL
March 20, 2013
10:06 a.m.
Hyatt Regency Hotel
330 Tijeras, Northwest
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: MR. SARAH R. SCHALMAN-BERGEN
Attorney for Plaintiffs

REPORTED BY: Mary Abernathy Seal, RDR, CRR, NM CCR 69
Bean & Associates, Inc.
Professional Court Reporting Service
201 Third Street, Northwest, Suite 1630
Albuquerque, New Mexico 87102

(6941K) MAS

10:30 1 A. I have been in conference rooms where he's
2 been in attendance. I don't know him, he doesn't
3 know me, I would say, so...

4 Q. Do you know who Randall Goodwin is?

10:31 5 A. No.

6 Q. Do you know who Deborah Conrad is?

7 A. Yes.

8 Q. Who is Ms. Conrad?

9 A. She's a senior leader at Intel.

10:31 10 Q. Do you ever have occasion to speak with
11 Ms. Conrad?

12 A. I don't believe I have ever met her.

13 Q. You also have not read her deposition
14 transcript; is that fair?

10:31 15 A. No -- yeah, I haven't read it.

16 Q. Do you know who Patricia Murray is?

17 A. Yes.

18 Q. Who is she?

19 A. She's a senior leader at Intel.

10:31 20 Q. Did you ever have occasion to speak with
21 Ms. Murray?

22 A. Yes.

23 Q. What occasions are those?

24 A. It's been a long time. She used to be the
10:31 25 head of human resources, so I would have more

10:31 1 opportunity to meet with her on work-related
2 products, things that I was working on, but that's
3 been several years.

4 [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

12 Q. Have you read any reports that have been
13 submitted by experts retained by either party or any
14 of the parties in this case?

10:32 15 MR. SHAH: Object to form.

16 A. No.

17 Q. Do you know who Dr. Kevin Murphy is?

18 A. No.

19 Q. Have you ever spoken with Mr. Murphy?

10:32 20 A. No, not that I recall.

21 Q. Did you ever speak with an expert that was
22 retained by the defendants in this case?

23 A. Not that I recall.

24 Q. You don't recall whether you spoke with

10:33 25 Mr. Murphy on June 19, 2012?

10:33 1 A. I had several phone conversations with
2 Intel lawyers. I don't recall who was on those
3 sessions, didn't pay attention, I guess; I was
4 answering questions. I wasn't worried about who was
10:33 5 asking me questions.

6 Q. Were you aware that the individual asking
7 questions was not an attorney of Intel's?

8 A. I don't recall. The name isn't familiar
9 to me at all, so...

10:34 10 Q. Does the name Dr. Edward Leamer mean
11 anything to you?

12 A. No.

13 Q. You submitted a declaration in this case;
14 is that fair?

10:34 15 A. Yes.

16 Q. Are you aware that other individuals
17 working at the other defendants have also submitted
18 declarations?

19 A. Could you repeat the question again?

10:34 20 Q. Sure. Are you aware that other
21 individuals working for different defendants also
22 submitted declarations similar to yours?

23 MR. SHAH: Object to form.

24 A. I would assume they would be taking --
10:35 25 having the same conversations in other companies.

10:35 1 Q. Do you know who Donna Morris is?

2 A. Donna --

3 Q. Morris.

4 A. Morris? Can you spell the last name?

10:35 5 Q. M-O-R-R-I-S.

6 A. No. No. Sorry.

7 Q. Have you reviewed any declarations that

8 anyone else besides yourself submitted in this case?

9 A. No.

10:35 10 Q. Do you know who Steve Burmeister is?

11 A. No.

12 Q. Do you know who Frank Wagner is?

13 A. Yes.

14 Q. Who is Frank Wagner?

10:35 15 A. I believe he's the head of compensation at

16 Google.

17 Q. How do you know Mr. Wagner?

18 A. I have exchanged e-mails with Frank.

19 Q. What's the nature of the e-mails that

10:36 20 you're exchanging?

21 MR. SHAH: Object to form.

22 A. Market intelligence.

23 Q. What do you mean by market intelligence?

24 A. Questions about company practices. We

10:36 25 engage in market intelligence. Like, I mean, Intel

10:47 1 compensation stuff.

2 Q. Do your responsibilities differ in any
3 way?

4 A. Yeah. We don't -- she -- her -- we had
10:47 5 the change where I became a manager, and she moved
6 from being a manager to being an individual
7 contributor, just a rotation. So some of the things
8 I do now, she used to do. Some of the things I used
9 to do, she now does. So...

10:47 10 Q. What do you mean by "individual
11 contributor"?

12 A. An employee that doesn't have any direct
13 reports.

14 Q. Do you know who Shilo Kuz is?

10:48 15 A. Yes.

16 Q. Who is that?

17 A. She's a worker at Intel.

18 Q. What's her job title?

19 A. I don't know her job title.

10:48 20 Q. Have you ever had any reason to interact
21 with Ms. Kuz?

22 A. Yeah. Shilo -- she's in our -- on more
23 the technical side, focal program office. That's
24 technically her organization. So I have worked with
10:48 25 her to get material posted on websites for our

10:48 1 managers to help them with their guidelines, pay
2 decisions, those types of things.

3 Q. Are you acquainted with any employees who
4 work in the compensation offices of any of the other
10:49 5 defendants in this case?

6 MR. SHAH: Object to form.

7 A. Can you repeat the list of defendants?

8 Q. Sure. So same question, but with respect
9 to Apple.

10:49 10 MR. SHAH: Object to form.

11 A. I used to have a contact with somebody at
12 Apple, but it's been five years or so.

13 Q. Who was that person?

14 A. I can't remember the name, off the top of
10:49 15 my head.

16 Q. Was it a man or a woman?

17 A. A woman, I think.

18 Q. How did you become acquainted with that
19 person?

10:49 20 A. We were doing some market intelligence on
21 bonus programs, in particular.

22 Q. Were you seeking market intelligence or
23 was the person from Apple seeking market
24 intelligence?

10:49 25 A. I was seeking.

10:49 1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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10:50 10 Q. Do you know any employees who work in
11 compensation at Pixar?

12 A. No.

13 Q. Do you know any employees who work in
14 compensation at Lucasfilm?

10:50 15 A. No.

16 Q. Do you know any employees who work in
17 compensation at Intuit?

18 A. No.

19 Q. Do you know any employees who work in
10:50 20 compensation at Google besides Mr. Wagner?

21 A. No. Oh. Yeah, there's one guy from Intel
22 who left. I don't know if he's still at Google, but
23 he left Intel to work at Google.

24 Q. What's the name of that person?

10:51 25 A. Now my mind goes blank. Let me think.

10:51 1 Drawing a blank.

2 Q. If you think of it, or the person at Apple

3 throughout today, you can feel free to let me know.

4 Okay?

10:51 5 A. Okay.

6 Q. Do you know anyone, any employees, at eBay

7 who work in compensation?

8 A. I don't think so.

9 Q. Do you know any employees at Dell who work

10:52 10 in compensation?

11 A. I don't think so.

12 Q. Do you know any employees at Adobe who

13 work in compensation?

14 A. I don't think so.

10:52 15 Q. Did you have any involvement in the

16 Department of Justice's investigation of Intel?

17 MR. SHAH: Object to form.

18 A. Not that I know of.

19 Q. Did you ever speak with anyone in the

10:52 20 Department of Justice?

21 A. No, unless they were on the phone call

22 with -- when I was meeting with Intel attorneys.

23 Q. Did you provide any information to anyone

24 at Intel with respect to the Department of Justice

10:53 25 investigation?

11:03 1 the HR business partner, were you the person that
2 was at the other end of the open door?

3 A. I -- yes.

4 Q. What is Intel University?

11:04 5 A. It's our internal learning group, so that
6 it conducts classes for managers and employees on
7 anything from cultural things to technical training.

8 [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

18 Q. When you were an HR business partner, who
19 did you report to?

11:05 20 A. I had several managers.

21 Q. What were their names?

22 A. Cecilia Lodico, Mike Fors. There's one
23 more, but I'm forgetting.

24 Q. Hopefully you'll be able to spell those

11:05 25 for the court reporter. We can do it off the

11:05 1 record.

2 A. Lodico, last name is L-O-D-I-C-O. Fors is

3 F-O-R-S. Fors.

4 Q. When you were an HR business partner, did

11:05 5 you have any direct reports?

6 A. No.

7 Q. As an HR business partner, did you get

8 reviewed as part of the focal process?

9 A. Did I -- did my manager do a performance

11:06 10 review on me?

11 Q. Yes.

12 A. Yes.

13 Q. Are you familiar with the different types

14 of grades that Intel assigns to employees?

11:06 15 A. Yes.

16 Q. What -- and when I say grades, I'm

17 speaking of EE, O.

18 A. Rating?

19 Q. Rating.

11:06 20 A. Okay.

21 Q. What rating did you receive as the HR

22 business partner?

23 A. One time I was successful faster,

24 successful equal. I don't remember all of my

11:07 25 performance rating history.

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11:10 1 throughout that time period?

2 A. From 1999 to 2003?

3 Q. Yes.

4 A. Not in material or significant ways. That
11:10 5 role was largely the same. And what I might be
6 doing in any particular month might be different,
7 but...

8 [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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Q. When you were the HR business partner,
what was your grade?

A. I was a grade -- I was hired as a grade 5.
I was promoted to a grade 6, and I was promoted to a
grade 7.

Q. When were you promoted to grade 6?

A. May 2000.

11:14 1 Q. When were you promoted to grade 7?

2 A. April 2001.

3 Q. With the promotions to different grades,
4 did you receive increased total compensation?

11:14 5 A. Yes.

6 MR. SHAH: Object to form.

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

14 Q. When you were hired into grade 5, in what
11:15 15 quartile of grade 5 were you paid?

16 MR. SHAH: Object to form.

17 A. I think I was hired to the midpoint, if I
18 remember right.

19 Q. When you were hired, were you aware of the
11:15 20 minimum and maximum in grade 5?

21 MR. SHAH: Object to form.

22 A. I don't recall if it was on the offer
23 letter or not.

24 Q. How did you know you were paid at the
11:15 25 midpoint of grade 5?

11:16 1 grade 5?

2 MR. SHAH: Object to form.

3 A. No. I think I was promoted before I had
4 the chance to get a raise at grade 5.

11:16 5 Q. When you were promoted to grade 6, did
6 your job title change?

7 A. I don't think so.

8 Q. Did your job responsibilities change?

9 A. I was given more to do. My scope of my
11:17 10 job increased. But it was along the same lines of
11 work.

12 Q. How did the scope of your job increase
13 when you were promoted to grade 6?

14 A. More organizations to support were added
11:17 15 to my job. I was put in charge of small projects to
16 lead, things like that.

17 Q. Which additional organizations to support
18 were added to your job when you were promoted to
19 grade 6?

11:18 20 A. I don't remember which specific ones at
21 that time.

22 Q. Do you recall which small projects you
23 were put in charge of at that time?

24 A. Leading voluntary separation programs for
11:18 25 US HR employees.

Category	Sub-category	Value
Category 1	Sub-category 1.1	14
	Sub-category 1.2	10
	Sub-category 1.3	10
	Sub-category 1.4	10
	Sub-category 1.5	10
Category 2	Sub-category 2.1	10
	Sub-category 2.2	10
	Sub-category 2.3	10
	Sub-category 2.4	10
	Sub-category 2.5	10
Category 3	Sub-category 3.1	10
	Sub-category 3.2	10
	Sub-category 3.3	10
	Sub-category 3.4	10
	Sub-category 3.5	10

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Q. After one year, you were promoted to grade 7; is that accurate?

A. From the 6 to a 7, yes.

Q. Did your job responsibilities change when you were promoted to grade 7?

A. I picked up additional organizations to support.

Q. Do you recall which organizations?

A. I believe that was comp and benefits, and I don't remember if Intel University was in 2000 or

11:21 1 2001.

2 Q. While you were in grade 6, did you receive
3 reviews as part of the focal process?

4 A. I received a -- so our review cycles are
11:22 5 April to April, or April to March, so I -- I don't
6 know if you would consider getting a review -- I was
7 one year as a 6 and then they moved me to a 7.

8 Q. During that review cycle, what was your
9 rating?

11:22 10 A. I don't recall. Successful faster, I
11 think, but that was 12 years ago.

12 Q. Do you recall who gave you that rating?

13 A. Cecilia was still my manager at the time.

14 Q. Were you aware, when you were in grade 6,
11:22 15 of what the minimum and maximum of the range in
16 grade 6 were?

17 A. Yes.

18 Q. How did you become aware of that?

19 A. It was printed on the focal pay letter.

11:22 20 Q. When you were in grade 6, did you know
21 what the ranges in any other grades were?

22 A. I think so. As somebody supporting HR
23 groups, I had access to more information than most
24 employees, probably.

11:23 25

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11:29

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MS. SCHALMAN-BERGEN: I'm conscious that

we have been going for a while, so why don't we take
a five-minute break?

MR. SHAH: Okay.

(Recess from 11:29 a.m. to 11:37 a.m.)

11:37 1 Q. (By Ms. Schalman-Bergen) Mr. McKell, is
2 there any reason why you can't continue to give me
3 your best testimony?

4 A. No.

11:37 5 Q. When you started as HR business partner,
6 were there other individuals who held the same job
7 title?

8 A. Yes.

9 Q. Who were they?

11:37 10 A. Hundreds of people.

11 Q. Were you aware of how those individuals
12 were paid?

13 MR. SHAH: Object to form.

14 A. As the business partner over HR, I
11:38 15 actually was, which isn't common.

16 Q. And were the other HR business partners --
17 strike that. In what grades were the other HR
18 business partners paid during that time period?

19 MR. SHAH: Object to form.

11:38 20 A. Grade levels -- most jobs span multiple
21 grade levels, so it could have been grade 3 all the
22 way to grade 9, for instance, or higher.

23 Q. Would each grade level come with different
24 responsibilities?

11:39 25 A. Yes.

11:39 1 Q. Approximately how many HR business
2 partners were paid in grade 5 during the time period
3 when you were paid in grade 5?

4 MR. SHAH: Object to form.

11:39 5 A. I really don't know. Less than 100. I
6 don't know.

7 [REDACTED]

[REDACTED]

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1. **Introduction**

The purpose of this report is to provide a comprehensive overview of the current state of the market and to identify key trends and opportunities for growth.

The report is structured as follows:

- 1. Introduction
- 2. Market Overview
- 3. Key Trends and Opportunities
- 4. Conclusion

2. **Market Overview**

The market is currently experiencing a period of rapid growth, driven by increasing demand for high-quality products and services. This growth is being fueled by a combination of factors, including technological advancements, changing consumer preferences, and a strong economic environment.

Key players in the market include [Company Name], [Company Name], and [Company Name]. These companies are leading the way in innovation and are driving the market forward.

3. **Key Trends and Opportunities**

There are several key trends and opportunities that are shaping the market:

- Technological Advancements:** The rapid pace of technological innovation is creating new opportunities for growth and differentiation.
- Changing Consumer Preferences:** Consumers are increasingly seeking high-quality, sustainable, and personalized products and services.
- Strong Economic Environment:** A strong and stable economic environment is providing a favorable backdrop for growth.

4. **Conclusion**

The market is well-positioned for continued growth and success. By leveraging the key trends and opportunities identified in this report, companies can achieve their goals and drive the market forward.

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11:45 1 [REDACTED]

2 [REDACTED]

3 Q. In 2001, you were promoted into range 7?

4 A. Grade 7.

11:46 5 Q. Grade 7. Excuse me. Where within the

6 range in grade 7 were you paid?

7 MR. SHAH: Object to form.

8 A. Probably Q1.

9 Q. Do you recall whether it was Q1?

11:46 10 A. I don't recall specifically. Again,

11 because of the overlap and not having a lot of time

12 in grade 6, I would have fallen lower and lower in

13 the range, so most likely Q1, but I'm not 100

14 percent sure.

11:46 15 Q. Did you receive an increase in your total

16 compensation when you were promoted from grade 6 to

17 grade 7?

18 A. Yes.

19 Q. Did you receive any other grade promotions

11:46 20 while you were an HR business partner besides the

21 ones we've discussed?

22 A. No.

23 Q. In approximately March 2003, you were

24 promoted to senior compensation analyst; is that

11:47 25 accurate?

11:47 1 A. I changed jobs. I wouldn't say promoted.
2 It was a lateral move, so I moved organizations, but
3 I was in the same grade.

4 Q. What prompted the move in organizations?

11:47 5 A. I was bored. I just wanted something
6 different to do. I had some project work as an HR
7 business partner that related to compensation.
8 There was an opening. I applied for it. I got the
9 job.

11:48 10 Q. Was this a job as the compensation and
11 benefits specialist?

12 A. Yes.

13 Q. And within that, you had some roles that
14 we've discussed earlier; is that fair?

11:48 15 MR. SHAH: Object to form.

16 A. Yeah, I don't know that we talked much
17 about the compensation and benefits one.

18 Q. Okay. When you first joined the
19 compensation and benefits specialist, what grade
11:48 20 were you in?

21 A. Grade 7.

22 Q. Did you receive an increase in your total
23 compensation when you moved from the HR business
24 partner to the compensation and benefits specialist
11:48 25 position?

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11:57 1 development jobs as jobs where there was lots of
2 competition and therefore recommended an SMA budget
3 for those jobs; is that fair?

4 MR. SHAH: Object to form.

11:58 5 A. It was business priority to get the best
6 talent they could hire in, so the -- since that's --
7 you know, where you're hiring from, that's a lot of
8 times where your concerns are, your -- so I don't
9 know that it's -- you know, if I break jobs into --

11:58 10 we break jobs into one of three categories -- job
11 families, we call them -- R&D, tech, and nontech,
12 there's a lot more -- if I take like HR, IT,
13 finance, those are jobs that exist in all

14 industries. When you start to limit to R&D within
11:59 15 the semiconductor manufacturing realm, the number of
16 people in those jobs starts to narrow. So it --
17 different market dynamics based on the job type. So
18 yeah, there's more competition for R&D jobs than
19 there is for HR jobs.

11:59 20 Q. And the SMA budget was a way to both
21 retain and attract top talent to the R&D jobs?

22 MR. SHAH: Object to form.

23 A. Yeah, I mean, SMA is a special market
24 adjustment to make sure that we're paying employees
11:59 25 what we intend to pay them, paying them to our goals

12:00

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Q. From business consultant at grade 7, did

3

you -- strike that. During your focal -- during the

4

time period when you were a business consultant at

12:02

5

grade 7, what was your rating?

6

A. Successful some years, may have been

7

outstanding a year or two. I don't recall which

8

years and what ratings.

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Q. Have you ever spoken with your peers about

22

what their ratings were?

23

A. No.

24

Q. Never?

12:03

25

A. No. I don't want to know. Better to not

12:03 1 know. It's personal. It's between them and their
2 manager.

3 Q. Have you ever been made aware that
4 employees speak to each other about what their
12:03 5 ratings are?

6 MR. SHAH: Object to form.

7 A. Sure. That's an individual choice.
8 There's nothing that prohibits it. It's just
9 something I'm not personally interested in.

12:04 10 Q. How did you become aware that employees
11 speak to each other about what their ratings are?

12 MR. SHAH: Object to form.

13 A. I don't know that I have witnessed it, but
14 people talk, some people more than others. So I
12:04 15 don't have anything else besides that.

16 Q. At a certain point, were you -- did you
17 receive a promotion from business consultant in
18 grade 7?

19 MR. SHAH: Object to form.

12:04 20 A. Yes, I was promoted to a grade 8.

21 Q. When was that?

22 A. End of 2006, I think.

23 Q. Prior to being promoted to grade 8, did
24 you receive any increase in compensation or
12:05 25 promotion within grade 7?

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Q. When you were promoted from grade 7 to

12:08

5

grade 8, in what quartile was your compensation

6

within grade 7 prior to your promotion?

7

MR. SHAH: Object to form.

8

A. I don't recall. Q2, Q3. I don't know.

9

Q. Were you aware of what the pay range of

12:08

10

grade 7 was at that time?

11

A. Yes.

12

Q. When you received the promotion to grade

13

8, did your job responsibilities change?

14

A. Not as much. I think I -- I was

12:09

15

performing, I think, at a grade 8, and since I

16

transferred jobs, again sort of a proving period

17

before sort of formalizing it, so once I had sort of

18

proved myself that I could compete, perform at that

19

level of scope, then my manager promoted me.

12:09

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Q. What job did you move to after the

7

business consultant role?

8

A. That was the exec comp program manager. I

9

also did the bonus programs, variable pay for Intel.

12:10

10

Q. When you say the bonus programs, are you

11

talking about two specific -- two different jobs, or

12

you worked to do bonus within the executive comp

13

program manager?

14

MR. SHAH: Object to form.

12:11

15

A. They're two different roles. I did both

16

roles.

17

Q. You did both roles simultaneously after

18

the business consultant manager --

19

A. Yes.

12:11

20

Q. Was that considered a promotion?

21

A. When I took the job, no. It would have

22

been considered a lateral.

23

Q. When you took that job -- or strike that.

24

Did you have to apply for that job?

12:11

25

A. Yes.

12:11 1 Q. So you applied for the job and you
2 received the job; is that correct?

3 A. Yes.

4 Q. And when you received the job, did that
12:11 5 result in increase in your total compensation?

6 A. No.

7 Q. Did it change your direct report?

8 A. It changed my manager.

9 Q. Who was your manager?

12:11 10 A. Jodie Hickam.

11 Q. And when you changed to the executive
12 compensation program manager, did you have any
13 direct reports?

14 A. No.

12:12 15 Q. How did your job responsibilities change?

16 A. So I wasn't involved with supporting
17 business groups anymore. I was -- my job dealt
18 with -- the bonus programs are global in nature, so
19 I was responsible for the analysis and communication
12:12 20 of the bonuses. And in exec comp I was -- instead
21 of working on employee compensation things for, you
22 know, grade 7 and 8s, it was executives.

23 Q. What grade are executives, typically?

24 A. It depends on how you define "executive."

12:13 25 Q. How do you define "executive"?

12:13

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12:18 1 Q. Did you know what the minimum and maximum
2 of the range in grade 8 were at the time?

3 A. I'm sure I did.

4 Q. Did you know what the midpoint of grade 8
12:18 5 was at the time?

6 A. I'm sure I did.

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Q. Has your manager changed at all since you

7

have been in grade 8?

8

A. Yes.

9

Q. How has your manager changed? Or excuse

12:20

10

me, who are the managers that you have had since you

11

have been in grade 8?

12

A. Jodie Hickam was the one what promoted me

13

to tactical grade 8, and Claire Gray has been my

14

manager since being a grade 8, after I changed jobs

12:20

15

from the exec comp role into another compensation

16

role.

17

Q. And when did you change jobs from the exec

18

comp role? Was that to the compensation manager

19

job?

12:20

20

A. No. I -- I was still comp and benefits

21

specialist by the official system. Internally, I

22

was base pay program manager, and that was in April

23

2008.

24

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Q. And at a certain point, did you change your job title to compensation manager?

12:40 1 A. Yes.

2 Q. And that was approximately nine months
3 ago?

4 A. Yes.

12:40 5 Q. Was that a promotion?

6 A. No. By virtue of being the same grade,
7 it's lateral. It's a development opportunity for
8 me.

9 Q. Did you apply for the job?

12:40 10 A. Yes and no. My manager asked me if I
11 would be interested in it. It was more part of a
12 reorg than the other jobs where I knew the job was
13 being open. So I guess -- I didn't formally
14 interview, but I agreed with my manager that I would
15 move to the new job.

16 [REDACTED]
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12:41 20 Q. Did your job responsibilities change?

21 A. Yes.

22 Q. Describe what your job responsibilities
23 are as compensation manager.

24 A. I manage the work of four other employees
12:41 25 that work on focal budgets and stock programs and

12:41 1 bonus programs.

2 Q. What are the names and job titles of those
3 four other employees?

4 A. They're all considered compensation --
12:41 5 comp and benefits specialists. Tanya Kako is one
6 we've mentioned before. Terri DeGroat,
7 D-E-G-R-O-A-T, is one. Carol Buck, B-U-C-K, is
8 another. And Yamit Livenah is the fourth.
9 L-I-V-E-N-E-H, if that helps.

12:42 10 Q. Do you still report to Ms. Gray?

11 A. Yes.

12 Q. Is this the first job position where you
13 have had direct reports?

14 A. Yes.

12:42 15 Q. Is part of your job now to provide focal
16 reviews to these direct reports?

17 A. Yes.

18 Q. Have you had an opportunity to do that
19 since you have been in your new job as compensation
12:42 20 manager?

21 A. Yes.

22 Q. When was that?

23 A. This month.

24 Q. What ratings did you give your four
12:42 25 employees, four direct reports?

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Q. I'd like to go back. We talked earlier

02:20

10

about an individual named Dr. Kevin Murphy. Do you

11

recall that?

12

A. I think you mentioned it, and I didn't

13

recognize the name.

14

Q. I'm going to represent to you that he's an

02:20

15

expert that the defendants have hired in this case.

16

A. Okay.

17

Q. I'm going to represent to you that he has

18

represented that he had an interview with you on

19

June 19th, 2012.

02:21

20

A. Okay.

21

Q. Do you have any reason to believe that

22

that's not the case?

23

A. No. Like I said, I had several conference

24

calls with people over the phone. If I went back

02:21

25

and looked at June 19th, his name might have been on

[illegible]

02:22

1



02:23

15

Q. Do you recall how long the telephone

16

conversation -- that telephone conversation was?

17

A. I don't think any of the conversations

18

extended beyond an hour. I think they were

19

generally 30 to 60 minutes in length, if my memory

02:24

20

is right. Sometimes much shorter. There were some

21

calls where it was, you know, like two clarifying

22

questions, and I think it was in less than a half an

23

hour. But I think most of them were scheduled for

24

half hour to an hour.

02:24

25

Q. And I just want to be clear. I'm not

02:24 1 asking about telephone calls where just the
2 attorneys were on the phone. Do you recall whether
3 you had one interview on June 19 with Mr. Murphy and
4 then some follow-up calls, or do you know who was on
02:24 5 the phone during those conversations?

6 A. I don't know who was on -- I couldn't tell
7 you who was on each of the calls. I don't --
8 Mr. Murphy? Is that his name?

9 Q. Dr. Murphy.

02:25 10 A. Dr. Murphy. If he was on the call in
11 June, then yeah. But I don't specifically remember
12 it. And I don't remember him on other calls. But
13 it's, you know, four voices on the end of a phone I
14 have never met, never seen, and to me it didn't
02:25 15 really matter who was asking the question. It was
16 more -- I was more focused on providing an answer.

17 Q. Did you take any notes in connection with
18 those telephone conversations?

19 A. No. Or if I did, I don't keep them, you
02:25 20 know. I might, like, doodle while I'm talking, but
21 then throw them away.

22 Q. But you don't recall taking any notes?

23 A. No. Sorry.

24 (Exhibit 2030 marked.)

02:26 25 Q. I'm going to hand you a document that I

02:26 1 have marked Exhibit 2030. And this is a copy of the
2 declaration of Danny McKell in support of opposition
3 to class certification and exhibits. I'm going to
4 assume you're familiar with this document, but if
02:26 5 you want to take some time to review, that's fine.

6 A. Yeah, I'm familiar with this one.

7 Q. Sir, is this a copy of the declaration
8 that you signed and submitted in this case?

9 A. Yes.

02:27 10 Q. If you go to page 5, which is the last
11 page of the declaration before the exhibits --

12 A. Okay.

13 Q. -- paragraph 16 reads, "I declare under
14 penalty of perjury that the foregoing is true and
02:27 15 correct."

16 Do you see that?

17 A. Yep.

18 Q. And do you agree that everything in your
19 declaration is true and correct?

02:27 20 A. Yes.

21 Q. And did you sign this document in
22 Rio Rancho, New Mexico, on November 12, 2012?

23 A. Yes.

24 Q. And that's your signature; right?

02:27 25 A. Yes.

02:40

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Page: 149

02:50

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Q. Yes.

2

A. Could have been Terri DeGroat at the time.

3

Could have been somebody else. I'd have to -- more

4

towards the end of the 2009, more likely to be like

02:51

5

a Terri DeGroat. 2005, it might have been somebody

6

else.

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04:20

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04:22

25

MR. SHAH: Object to form.

04:27

1

[REDACTED]

[REDACTED]

[REDACTED]

4

Q. You can put this document aside. Let's go

04:27

5

off the record for five minutes.

6

(A discussion was held off the record.)

7

(Recess from 4:27 p.m. to 4:40 p.m.)

8

Q. Mr. McKell, is there any reason why you

9

can't continue to give me your best testimony?

04:40

10

A. No.

11

[REDACTED]

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Category	Item	Value
Category 1	Item 1.1	100
	Item 1.2	200
	Item 1.3	300
	Item 1.4	400
	Item 1.5	500
	Item 1.6	600
	Item 1.7	700
	Item 1.8	800
	Item 1.9	900
	Item 1.10	1000
Category 2	Item 2.1	150
	Item 2.2	250
	Item 2.3	350
	Item 2.4	450
	Item 2.5	550
	Item 2.6	650
	Item 2.7	750
	Item 2.8	850
	Item 2.9	950
	Item 2.10	1050
Category 3	Item 3.1	200
	Item 3.2	300
	Item 3.3	400
	Item 3.4	500
	Item 3.5	600
	Item 3.6	700
	Item 3.7	800
	Item 3.8	900
	Item 3.9	1000
	Item 3.10	1100
Category 4	Item 4.1	250
	Item 4.2	350
	Item 4.3	450
	Item 4.4	550
	Item 4.5	650
	Item 4.6	750
	Item 4.7	850
	Item 4.8	950
	Item 4.9	1050
	Item 4.10	1150

04:42

1

[REDACTED]

2

[REDACTED]

3

Q. Since you have been at Intel, have you had

4

any responsibilities with respect to recruiting of

04:43

5

employees?

6

A. No.

7

Q. Do you have any personal knowledge of

8

practices of recruiters at Intel?

9

MR. SHAH: Object to form.

04:43

10

A. Can you be more specific?

11

Q. Sure. Do you have any personal knowledge

12

as to how recruiters at Intel recruit talent?

13

A. Yes.

14

Q. Okay. What's your understanding of how

04:43

15

recruiters at Intel recruit talent?

16

A. They can go to job fairs, search job

17

boards, Monster.com, those types of things, to find

18

candidates who they think might be interested.

19

There's also employees who submit their resume

04:44

20

straight to Intel that express an interest in

21

coming. So they can engage with search firms,

22

headhunters, to identify, so there's various ways to

23

do it.

24

Q. Do you have any personal knowledge as to

04:44

25

whether recruiters at Intel use cold-calling as one

04:44 1 means of recruiting?

2 A. I don't.

3 [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

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04:45 1 agree with it.

2 A. Okay.

3 Q. "Internal equity is defined as a fairness

4 criterion comparing comparable Intel jobs using

04:45 5 education, experience, and skill level and

6 performance and timing of next review period.

7 Internal equity is used to determine wage rates for

8 new hires and current employees that correspond to

9 each job's relative value to Intel. It can also be

04:45 10 used to reflect the relationship between one or more

11 individuals' base plus EB/commission target based on

12 the level of contribution."

13 Do you see that?

14 A. Yes.

04:46 15 Q. Is that an accurate definition of internal

16 equity?

17 MR. SHAH: Object to form.

18 A. I think it's a fair definition.

19 Q. Okay. I'm going to hand you a document

04:46 20 that has been marked Exhibit 2031.

21 (Exhibit 2031 marked.)

22 MS. SCHALMAN-BERGEN: I believe that this

23 document was also marked as Defendants' 89, but I

24 don't have that copy with me.

04:46 25 MR. SHAH: Okay.

[REDACTED]

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04:50

15

(Exhibit 2032 marked.)

16

Q. I'm handing you a document I have marked

17

as Exhibit 2032. Why don't you take a moment to

18

review it. For the record, this is a document

19

Bates-stamped 76657DOC004396 through 98.

04:51

20

MS. SCHALMAN-BERGEN: While you're

21

reviewing, if people want to go off the record for a

22

second to get coffee, I would be happy to do that.

23

(A discussion was held off the record.)

24

(Recess from 4:52 p.m. to 4:54 p.m.)

04:54

25

Q. While I got my coffee, is there any reason

04:54 1 that you couldn't continue to give me your best
2 testimony?

3 A. No, I'm good.

4 Q. Okay. Okay. Have you had a chance to
04:54 5 review this document, Exhibit 2032?

6 A. Yes.

7 Q. Okay. What do you recognize it to be?

8 A. Sorry, what did you say?

9 Q. What do you recognize this document to be?

04:55 10 A. An e-mail exchange between several
11 individuals, so -- Tom Galvin at the time was the
12 VP -- or not VP. Director of compensation and
13 benefits at Intel.

14 Q. This is an e-mail chain. The top e-mail
04:55 15 is from you; is that accurate?

16 A. Yes.

17 Q. Okay. And do you send and receive e-mail
18 in the ordinary course of your business?

19 A. Yes, all the time.

04:55 20 Q. More than you want, probably.

21 A. Probably.

22 Q. What's your e-mail address at Intel?

23 A. Danny.McKell@Intel.com.

24 Q. Has that been your e-mail address
04:55 25 throughout the time you have been at Intel?

[illegible]

04:57

1

[REDACTED]

2

[REDACTED]

3

Q. I would like to know, but I'm not going

4

to. Michael Jordan is not the basketball player;

04:57

5

fair?

6

A. No.

7

Q. Okay. An employee at Intel?

8

A. He's a white guy.

9

Q. All right. Devra Johnson is in HR; is

04:58

10

that right?

11

A. She's an HR manager.

12

Q. What was your job title in the time of

13

this e-mail exchange?

14

A. I was a compensation consultant.

04:58

15

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05:09

10

I'm going to hand you a document I have

11

marked as Exhibit 2033.

12

(Exhibit 2033 marked.)

13

Q. For the record, this document is Bates

14

stamped 76657DOC004599. This is an e-mail between

05:10

15

Danny McKell and Gary Boyle copying Paula Cooney and

16

Elizabeth Waterman, dated February 22nd, 2005,

17

subject: Feb MSR from McKell. Ready?

18

A. Yep.

19

Q. Okay. Have you seen this document before?

05:10

20

A. Yes.

21

Q. Did you write this document?

22

A. I did.

23

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

05:10

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8

THE VIDEOGRAPHER: Counsel, I need to

9

change tapes real quick.

05:15

10

(Recess from 5:15 p.m. to 5:16 p.m.)

11

(Exhibit 2034 marked.)

12

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14

Q. On the second page, the e-mail from Jodie

05:57

15

to you, copy to Sara Holder, do you see that?

16

A. Yes.

17

Q. It says, "Hi, Danny. Now that the proxy

18

is out, I think we might want to draft a WTK

19

response about Paul's compensation. I haven't

05:57

20

received any WTKs yet, but I expect it is only a

21

matter of time before we do. An article on the

22

front page of Saturday's business section of the

23

Arizona Republic read, 'Intel CEO's pay jumps,' and

24

then there's something redacted for privacy.

05:57

25

"'Intel Corp raised CEO Paul Otellini's pay,'"

05:57 1 another redaction, "'last year, as the company's
2 profits rose.'"

3 Do you see that?

4 A. Uh-huh.

05:57 5 Q. Was the information about Mr. Otellini's
6 compensation public?

7 A. Yeah, the proxy is a publicly available
8 document, so as soon as it's out, then anybody can
9 access it.

05:58 10 MS. SCHALMAN-BERGEN: So we'd request that
11 you produce this without the privacy redaction.

12 MR. SHAH: I agree that some of the
13 privacy redactions should be taken out. I don't
14 know if all of them should, but I agree that some
05:58 15 will, and we can produce --

16 MS. SCHALMAN-BERGEN: Okay.

17 MR. SHAH: -- an unredacted copy.

18 MS. SCHALMAN-BERGEN: All right.

19 [REDACTED]

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6

(Exhibit 2042 marked.)

7

Q. I'm going to hand you a document marked

8

2042. This document has a Bates stamp

9

76657DOC057417. It's an e-mail from Jeri Karges,

06:14

10

K-A-R-G-E-S, to C&B Org All, sent November 11, 2010.

11

Subject: Google announcement to give staff 10

12

percent raise. Let me know when you're ready.

13

A. Okay.

14

Q. Okay. Do you recognize this document?

06:15

15

A. I do.

16

Q. Are you on the CNB Org All distribution

17

list?

18

A. I am.

19

Q. Or were you at least on November 11, 2010?

06:15

20

A. I am, yeah.

21

Q. Okay. Do you recall Google announcing a

22

10 percent increase to its employees?

23

A. I do.

24



06:15

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12

MS. SCHALMAN-BERGEN: Okay. Let's go off

13

the record.

14

(Recess from 6:17 p.m. to 6:23 p.m.)

06:23

15

Q. Sir, did you just have a brief

16

conversation with Intel's attorney about questions

17

that he might ask you?

18

MR. SHAH: I'm going to object and

19

instruct you not to answer. I'll put my mic on.

06:23

20

I'm going to object and ask that -- instruct you not

21

to answer on the grounds that it calls for

22

attorney/client communication.

23

Q. I'll hand you a document I have marked as

24

Exhibit 2043.

06:23

25

(Exhibit 2043 marked.)

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21 Q. I have one final question regarding -- and
22 I don't recall what number the exhibit was, but it
23 was your declaration. Do you remember what exhibit
24 number that is?

06:31

25

A. 2030. 2030, I think.

06:31

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MR. SHAH: I have no further questions.

06:40

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06:42

20

MS. SCHALMAN-BERGEN: I have no more

21

questions for you.

22

MR. SHAH: Thanks. No more from me.

23

MS. SCHALMAN-BERGEN: Thank you very much

24

for your time.

06:42

25

(The deposition concluded at 6:42 p.m.)

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE ANTITRUST
LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS.

NO: Master Docket No. 11-CV-2509-LHK

REPORTER'S CERTIFICATE

I, MARY ABERNATHY SEAL, New Mexico CCR #69, DO HEREBY CERTIFY that on March 20, 2013, the Deposition of DANIEL ROBERT McKELL was taken before me at the request of, and sealed original thereof retained by:

Attorney for the Plaintiffs
Ms. Sarah R. Schalman-Bergen
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, Pennsylvania 19103-6365
(215) 875-3000

I FURTHER CERTIFY that copies of this Certificate have been mailed or delivered to all Counsel, and parties to the proceedings not represented by counsel, appearing at the taking of the Deposition.

I FURTHER CERTIFY that examination of this transcript and signature of the witness was required by the witness and all parties present. On _____ a letter was mailed or delivered to Mr. Sujal J. Shah regarding obtaining signature of the witness, and corrections, if any, were appended to the original and each copy of the Deposition.

1 I FURTHER CERTIFY that the recoverable
2 cost of the original and one copy of the Deposition,
3 including exhibits, to Mr. Sarah R. Schalman-Bergen
4 is \$_____.

5 I FURTHER CERTIFY that I did administer
6 the oath to the witness herein prior to the taking
7 of this Deposition; that I did thereafter report in
8 stenographic shorthand the questions and answers set
9 forth herein, and the foregoing is a true and
10 correct transcript of the proceeding had upon the
11 taking of this Deposition to the best of my ability.

12 I FURTHER CERTIFY that I am neither
13 employed by nor related to nor contracted with
14 (unless excepted by the rules) any of the parties or
15 attorneys in this case, and that I have no interest
16 whatsoever in the final disposition of this case in
17 any court.

18 _____
19 Mary Abernathy Seal
20 BEAN & ASSOCIATES, INC.
21 NM Certified Court Reporter #69
22 License Expires: 12/31/13

23 (6941K) MAS
24 Date taken: March 20, 2013
25 Proofread by: JB

1 IN RE: HIGH-TECH EMPLOYEE ANTITRUST LITIGATION

2 WITNESS SIGNATURE/CORRECTION PAGE

3 If there are any typographical errors to
4 your deposition, indicate them below:

5 PAGE LINE

6 _____ Change to _____

7 _____ Change to _____

8 _____ Change to _____

9 _____ Change to _____

10 Any other changes to your deposition are
11 to be listed below with a statement as to the reason
for such change.

12 PAGE LINE CORRECTION REASON FOR CHANGE

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 I, DANIEL ROBERT McKELL, do hereby certify
20 that I have read the foregoing pages of my testimony
as transcribed and that the same is a true and
21 correct transcript of the testimony given by me in
this deposition on March 20, 2013, except for the
changes made.

22

23 _____
DANIEL ROBERT McKELL

24 (6941K) MAS Proofread by: JB

25